

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

January 3, 2012

Before

RICHARD A. POSNER, *Circuit Judge*

JOEL M. FLAUM, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

No. 10-3271

DANIEL VIRNICH,
Plaintiff-Appellant,

v.

JEFFREY VORWALD, *et al.*,
Defendants-Appellees.

Appeal from the United States District
Court for the Western District of
Wisconsin.

No. 3:09-cv-00340

Barbara B. Crabb,
Judge.

ORDER

The court's opinion of December 20, 2011, is hereby amended as follows:

On page 18, footnote 4 is amended by striking the indicated language:

⁴This rule is consistent with federal law and the state law of ~~Illinois and~~ Indiana. See *Kurek v. Pleasure Driveway & Park District*, 557 F.2d 580, 595 (7th Cir. 1977) (federal ~~and~~ ~~Illinois~~ law), *vacated on other grounds*, 435 U.S. 992 (1978); *Starzenski v. City of Elkhart*, 87 F.3d 872, 878 (7th Cir. 1996) (Indiana law); see also *Erebia v. Chrysler Plastic Products Corp.*, 891 F.2d 1212, 1215 n. 1 (6th Cir. 1989) ("the established rule in the federal courts is that a final judgment retains all of its preclusive effect pending appeal"); *Robi v. Five Platters, Inc.*, 838 F.2d 318, 327 (9th Cir. 1988) (same for issue preclusion)."

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The corrected footnote 4 shall read:

⁴This rule is consistent with federal law and the state law of Indiana. See *Kurek v. Pleasure Driveway & Park District*, 557 F.2d 580, 595 (7th Cir. 1977) (federal law), *vacated on other grounds*, 435 U.S. 992 (1978); *Starzenski v. City of Elkhart*, 87 F.3d 872, 878 (7th Cir. 1996) (Indiana law); see also *Erebia v. Chrysler Plastic Products Corp.*, 891 F.2d 1212, 1215 n. 1 (6th Cir. 1989) ("the established rule in the federal courts is that a final judgment retains all of its preclusive effect pending appeal"); *Robi v. Five Platters, Inc.*, 838 F.2d 318, 327 (9th Cir. 1988) (same for issue preclusion)."